IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 383 OF 2006

Prashant Jaywant Kasle
and anr. ...Applicants.

V/s

The State of Maharashtra
(At the instance of
Powai Police Station). ...Respondents.

Mr. J.V. Desai for the applicants.

Mr. S.S. Tatkare, APP for the State.

CORAM: V.M. KANADE, J.

DATE: 3rd February, 2006

P.C.:

1. Heard the learned Counsel for the applicants and the learned APP for the State.

2. The applicants take exception to the order of bail granted by the Metropolitan Magistrate, 44th Court at Railway Mobile Court at Andheri wherein a condition has been imposed directing the applicant to give solvent surety of Rs 50,000/-. The applicants were working as security guards in the Company where the

alleged theft was supposed to have taken place. Though the applicants were in jail for more than 60 days, no charge-sheet was filed by the Investigating Officer and, therefore, an application was made under section 167 sub-clause (2) of the Code of Criminal Procedure. The learned Magistrate, while granting bail, imposed a condition that the applicants should furnish solvent surety of Rs 50,000/-.

3. In my view, the order of bail granted by the Magistrate practically amounts to denial of bail as the condition which is imposed is unduly excessive and the applicant is not in a position to avail of the bail which is granted on account of their inability to furnish the solvent surety of Rs 50,000/-. In the result, the said amount is reduced to Rs 5000/- each. The applicants to furnish one or two sureties in the like amount each. The applicants to report to Powai Police Station once in a week. It is clarified that it is an admitted position that as of today there is no material available against the present applicants on the basis of which the charge-sheet can be filed against them. It is clarified that the moment the material is obtained during the course of investigation, the Investigating Officer is at liberty to apply before the concerned court under section

173(8) and obtain the appropriate order and in case the material is found against the applicants, liberty is granted to apply for cancellation of the bail.

V.M. KANADE, J.